

MULTI-FAMILY ZONING REQUIREMENTS
FOR MBTA COMMUNITIES
UPDATE

As Required by M.G.L c. 40A, Section 3A

BACKGROUND

- As part of the Economic Development Bill from January 2021, Section 3A was added to M.G.L.c.40A (also known as the Zoning Act)
- This new section of Chapter 40A requires that all MBTA communities provide for at least 1 zoning district of reasonable size in which multi-family housing is permitted as of right, and meets the following criteria:
 - Minimum gross density of 15 units per acre;
 - Not more than 1/2 mile from a commuter rail station, subway station, ferry terminal or bus station, if applicable;
 - No age restrictions; and
 - Suitable for families with children.

BACKGROUND (CONT.)

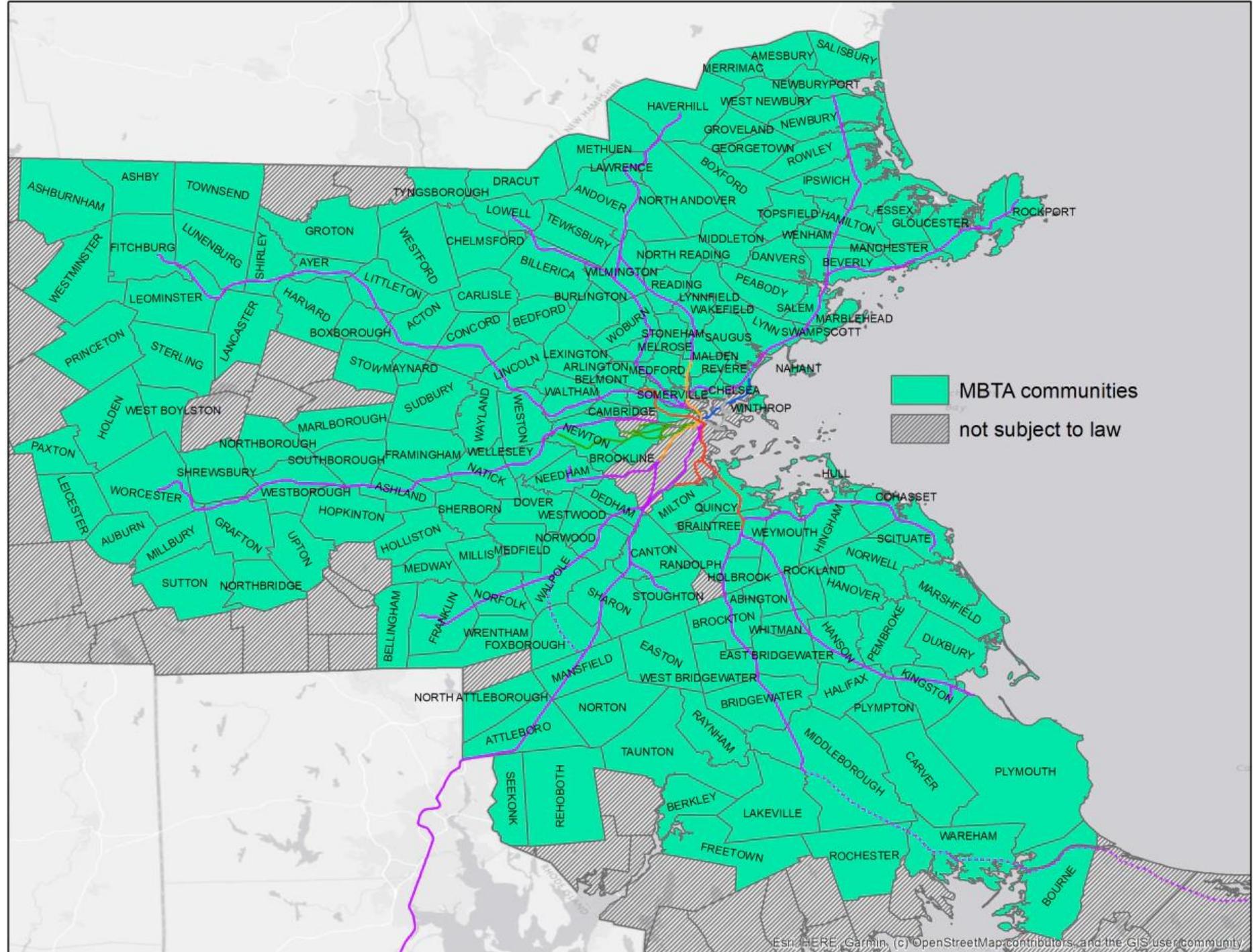
- M.G.L. c 40a. Section 3A also states the following:
 - Any MBTA community that fails to comply with this section shall not be eligible for funding from the Housing Choice Initiative, Local Capital Projects Fund, and the MassWorks infrastructure program.
 - The Executive Office of Housing and Economic Development, in consultation with the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, shall circulate **guidelines** to determine if an MBTA community is in compliance.

What is an MBTA Community

MBTA community” is defined by reference to M.G.L.c.161A,sec.1:

- one of the “14 cities and towns” that initially hosted MBTA service;
- one of the “51 cities and towns” that also host MBTA service but joined later;
- other “served communities” that abut a city or town that hosts MBTA service; or
- a municipality that has been added to the MBTA under G.L.c. 161A, sec. 6 or in accordance with any special law relative to the area constituting the authority.

In total, **175 MBTA communities** are subject to the new requirements of Section 3A of the Zoning Act.



THE GUIDELINES

- On December 15, 2021 DHCD issued their initial draft guidelines with the intention of providing communities an opportunity to review and provide feedback until March 31, 2022.
- Final guidelines were released on August 10, 2022
- Guidelines and Compliance Model can be found on the website for the Massachusetts Executive Office of Housing and Economic Development or through the following link: <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities>
- **There is no requirement to construct a particular number of units, or any units at all. This new law requires multi-family by-right zoning, it is not a housing production mandate**

MAJOR CHANGES FROM DRAFT GUIDELINES

- **Revised Community Categories:** MBTA Communities are now categorized as rapid transit, commuter rail, adjacent, or adjacent small town. The “bus service” category has been eliminated.
- **Significant Adjustments for Small and Rural Towns with No Transit Stations:** The final guidelines eliminate the minimum land area requirement and reduce the multi-family unit capacity requirement for communities with a population of less than 7,000 or less than 500 residents per square mile.
- **Changes to the Reasonable Size Criteria:** The guidelines establish “circuit breakers” that prevent multi-family unit capacity from exceeding 25% of a community’s existing housing stock, or the minimum land from exceeding 1.5% of its total developable land area.

MAJOR CHANGES FROM DRAFT GUIDELINES

- **Tailored District Location Requirements:** The portion of a multi-family zoning district that must be located within a half mile of a transit station now varies based on the amount of developable station area within each MBTA community. Communities with more developable station area land will be required to have more of their multi-family districts within a half mile of transit stations. A community with less than 100 developable acres within a half mile of a station will be free to choose any appropriate location.
- **Multi-family Unit Capacity Tool:** To help communities calculate multi-family unit capacity in a consistent, transparent, and data-driven way, we built a compliance model workbook tool. The compliance model will provide a GIS land map for each municipality and calculate a zoning district's multi-family unit capacity and gross density based on inputs provided by each community. This tool was released on November 22, 2022.

CHANGES TO THE GUIDELINES AFFORDABLE HOUSING

- Communities have the option to require a percentage of “workforce housing” units occupied by households earning more than 80% of area median income (AMI).
- Communities can set income limits for affordable units below 80% AMI, provided that a community demonstrates that a reasonable variety of multi-family housing types can be feasibly developed at the proposed affordability levels
- Allow a community to require that more than 10% of the units in a project be affordable units (but not more than 20%), provided that the community demonstrates that a reasonable variety of multi-family housing types can be feasibly developed at the higher percentage.
- Create an exception to the 20% cap on affordable units. The new exception applies only to previously approved and adopted 40R “smart growth” zoning districts

*DHCD will consider an affordability requirement to be consistent with as of right zoning as long as the zoning requires not more than 10 percent of the units in a project to be affordable units, and the cap on the income of families or individuals who are eligible to occupy the affordable units is not less than 80 percent of area median income

Community	Category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable Station Area***	Percentage of district to be located in Station Area
Walpole	Commuter Rail	10,042	1,506	50 Acres	638 Acres	75%

* Minimum multi-family unit capacity for most communities will be based on the 2020 housing stock and the applicable percentage for that municipality's community type. In some cases, the minimum unit capacity is derived from an extrapolation of the required minimum land area multiplied by the statutory minimum gross density of 15 dwelling units per acre. In cases where the required unit capacity from these two methods would exceed 25% of the community's housing stock, the required unit capacity has instead been capped at that 25% level.

** Minimum land area is 50 acres for all communities in the rapid transit, commuter rail and adjacent community types. There is no minimum land area requirement for adjacent small towns. Where 50 acres exceeds 1.5% of the developable land area in a town, a cap has been instituted that sets minimum land area to 1.5% of developable land area in the town.

*** Developable station area is derived by taking the area of a half-mile circle around an MBTA commuter rail station, rapid transit station, or ferry terminal and removing any areas comprised of excluded land.

MBTA COMPLIANCE TIMELINE



*Walpole, being designated a Commuter Rail Community will need to comply with this date.

MASS HOUSING PARTNERSHIP 3A-TA GRANT PROGRAM

- In November I applied for Technical Assistance through MHP's MBTA Technical Assistance Program for assistance with:
 - Identifying district boundaries;
 - Developing proposed use and density requirements;
 - Estimating potential unit capacity and gross density using DHCD's compliance Model; and
 - Drafting zoning amendments.
- On December 13, 2022 I was informed from that we had received the grant and would be working with the Barrett Consulting Group as our designated consultant.
- The timeline of this technical assistance grant is to be through June of 2023.

GENERAL PRINCIPLES OF COMPLIANCE

- Multi-family use as of right
- A zoning district of “reasonable size”
- Minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the State environmental code
- Minimum multi-family unit capacity (based on a municipality’s service type and 2020 housing stock)
- Housing shall be without age restrictions and shall be suitable for families with children
- Location(s) of a multifamily district

MULTI-FAMILY HOUSING “AS OF RIGHT”

- The use should be allowed in the chosen district **without** the need to obtain a Special Permit.
- Site Plan Review is still required.
- Mixed-use is allowed, **as long a multi-family housing is separately allowed as well**

DETERMINING “REASONABLE SIZE”

- Zoning Districts must comprise at least **50 acres of land**
 - Figure is based on approximately one-tenth of the land area within 0.5 miles of a transit station
- Zoning Districts can be either an applicable existing zoning districts or a zoning overlay district
- Some municipalities may seek to establish an overlay zoning district in multiple locations (depending on infrastructure or location to public transit). However, at least one portion of the proposed district must include no less than 25 acres of contiguous parcels. No portion of the district that is less than 5 contiguous acres of land will count towards the minimum size requirement.

MINIMUM GROSS DENSITY

- The required minimum gross density required for all applicable communities is 15 dwelling units per acre, subject to any further limitations imposed by relevant aspects of state environmental code
- Gross density is defined as a density measurement that includes all land, including land occupied by public rights-of-way, recreational, civic, commercial and other nonresidential uses
- The minimum gross density requirement must also factor in a municipality's minimum multi-family unit capacity...

MINIMUM MULTI-FAMILY UNIT CAPACITY

- This is the number of units that a municipality must show they can potentially build by-right within the zoning for the applicable zoning district
- This number varies based on municipality's designated service type and total dwelling units within the community (2020 Census figures)

Service Type/Category	Minimum % of Total Housing Stock	Number of Communities
Rapid Transit Communities	25%	17
Commuter Rail Communities	15%	35
Adjacent Communities	10%	48
Adjacent Small Town Communities	5%	75

MBTA Community Type

MBTA Communities are categorized based on whether they have transit service located within the municipality, within 0.5 miles of their boundary, and type of service

Rapid Transit

- MBTA subway station located within its borders, or within 0.5 miles of its border (may have more than 1 service type)

Commuter Rail

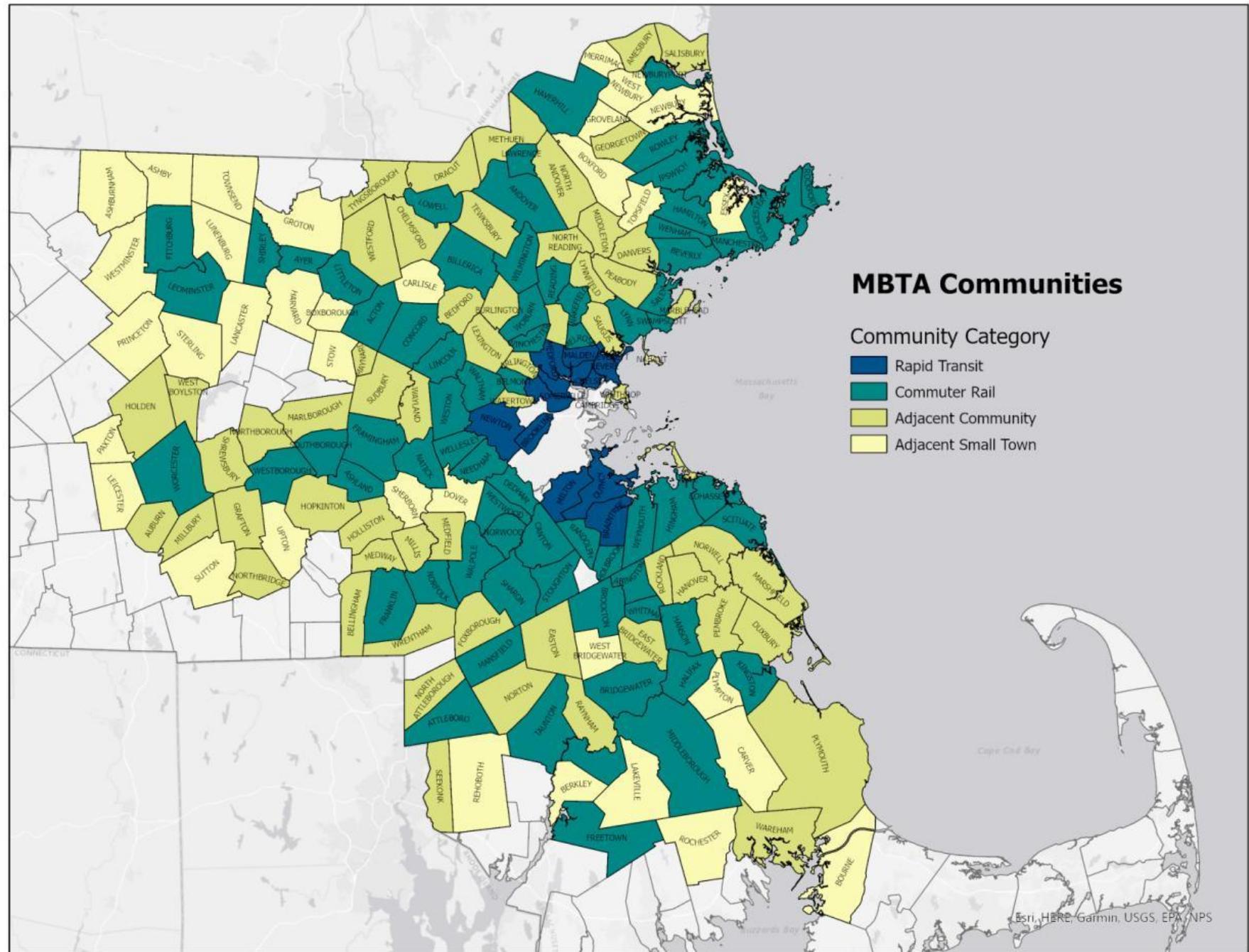
- No subway, but does have an MBTA bus route within boundary (may also have commuter rail)

Adjacent Community

- Has commuter rail only, no bus or subway

Adjacent Small Town

- Abuts a municipality that has one of the three previous services, but does not have the service themselves



HOUSING SUITABLE FOR FAMILIES WITH CHILDREN

- Proposed units should not have age restrictions
- Shall not place a limit on unit size, number of bedrooms, number of occupants, etc.

LOCATION OF DISTRICTS

- Shall be located **not more than 0.5 miles** from a commuter rail station, subway station, ferry terminal, or bus stations, if applicable
- MBTA Communities with some land area within 0.5 miles of a transit station
 - Require at least $\frac{1}{2}$ of the land area of the multi-family zoning district to be located within the required distance, with exception only in unusual cases
- MBTA Communities with no land area within 0.5 miles of a transit station
 - The multi-family district should be located in an area with reasonable access to a transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that otherwise is consistent with the Commonwealth's sustainable development principles (e.g., near an existing downtown, village center, or an area of concentrated development)